



VARIANCE PROCESS GUIDE

What is a Variance?

The granting of a Variance allows a deviation from the strict application of the development regulations of the particular zone. It allows a reasonable use for a parcel of property having unique characteristics by virtue of its size, location, design or topographical features, and its relationship to adjacent or surrounding properties and developments. The purpose of the Variance is to bring a property up to parity with other properties in the same zone and vicinity insofar as a reasonable use is concerned. However, a Variance does not grant any special privilege or concession not enjoyed by other property owners in the same zone and vicinity. In no case shall a variance be granted to permit a use other than a use of a property permitted in the district in which the subject property is located.

How to get a Variance?

The following Process Flow Charts illustrate the key steps in the development review process as described in more detail below.

[\(Process Flow Charts – Administrative Process\)](#)

[\(Process Flow Charts – Public Hearing Process\)](#)

Pre-Application: We recommend that the first thing you do is request a Pre-Application meeting. The purpose of this optional meeting is to give you the opportunity to meet with representatives from various City departments/divisions to identify and discuss any major issues at an early stage of the project. For more information call 619-691-5101 or visit the Development Services counter located in the Public Services Building 200 at 276 Fourth Avenue (northwest corner of Fourth and F Street, downtown Chula Vista).

Application: The applicant must complete a Development Processing "[Application Form, Type A](#)". The completed form must be filed with the Planning Division and must be accompanied by the required fee ([pdf](#)), plans and other attachments. Refer to the "[Application Checklist](#)" for complete submittal requirements.

Pre-Submittal and Completeness Check: Prior to submitting a full application package, applicants are encouraged to schedule an optional pre-submittal meeting with the Project Manager regarding the project. One copy of a completed application form, a set of the project plans and other documents (previously specified by the Project Manager), should be provided by the applicant at the meeting. The purpose of the meeting is to verify that the application package includes all the necessary information required for processing the request as outlined in the application checklist. The completeness check ensures that a project application is complete before it's routed for review and comment by other departments/divisions and the Project Manager. The Project Manager will conduct the completeness check of the application package.

Complete Application: A project application will be deemed complete for processing if all the materials submitted meet the requirements of the submittal checklist for the application type. If the application is deemed complete, the application checklist will be initialed by city staff (Project Manager or Senior Planner) and provided to the applicant at the Pre-submittal meeting along with instructions for a full submittal as outlined in the applicable application checklist. The applicant and Project Manager will schedule a meeting, at the earliest possible time, to formally submit the required number of copies of the application package for intake.

Incomplete Application: If the application is incomplete, the Project Manager or Senior Planner will outline the missing items on the application checklist and schedule a follow-up meeting with the applicant to confirm the incomplete items have been satisfied and to initial the checklist. Re-submittal of an incomplete application will be given to the original Project Manager or Senior Planner who conducted the first completeness check to do a second completeness review. Once the application is deemed complete, the application will be submitted to intake and routed for City department review and processing.

Walk-in Submittals: In instances where no pre-application meeting was held, no previous contact with city staff has been made, and a Pre-Submittal meeting was not scheduled, a Senior Planner or Project Manager will perform the completeness check and subsequently assign to a Project Manager. The application will be logged in but the completeness check may take from two weeks to 30 days to complete. Upon review of the application, the Senior Planner will contact the applicant pursuant to one of the processes described above.



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Project Review: Once the application is deemed complete, the application and projects plans are routed to City Departments for review and, if applicable, to outside agencies such as the school districts or water districts. Processing times vary depending upon the complexity of the project, additional studies and/or information needed to address staff questions, and environmental review status. Generally, however, 3-4 weeks after the application has been filed, the applicant will be notified of staff comments for the project plans. If deemed necessary, staff will arrange for a project review meeting with the applicant and representatives from other city departments to discuss the comments in detail. The project review may require additional submittals to respond to comments and corrections required for compliance with the City's regulations and development standards.

Also, upon submittal of a complete application and distribution to City Departments for review and comment, a Notice of Application (NOA) will be sent to property owners within 500 feet of the project site and to a list of interested parties who have requested such notification. Depending upon the level of interest in the project or if the project is subject to the consolidated hearing process ([CVMC 19.14.050](#)), a community meeting may be scheduled for the project ([Council Policy 400-02 - Public Participation](#)).

Following project evaluation and completion of environmental review, final plans and exhibits will be prepared by the applicant for consideration or public hearing

Decision Making: Depending on the type of request, the impact, or the potential for controversy, a Variance may be considered administratively without a public hearing by the Zoning Administrator (ZA) 19.14.030(B) or with a public hearing by the ZA. 19.14.040.

Required Findings:

The ZA can grant a variance only if the evidence, provided by the applicant, supports the following findings:

- That a hardship peculiar to the property and not created by any act of the owner exists. Said hardship may include practical difficulties in developing the property for the needs of the owner consistent with the regulations of the zone; but in this context, personal, family or financial difficulties; loss of prospective profits; and neighboring violations are not hardships justifying a variance. Further, a previous variance can never have set a precedent, for each case must be considered only on its individual merits;
- That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zoning district and in the same vicinity, and that a variance, if granted, would not constitute a special privilege of the recipient not enjoyed by his neighbors;
- That the authorizing of such variance will not be of substantial detriment to adjacent property, and will not materially impair the purposes of this chapter or the public interest; and
- That the authorizing of such variance will not adversely affect the general plan of the city or the adopted plan of any governmental agency.

Administrative Items:

Pursuant to CVMC 19.14.030(B), the ZA is authorized to grant variances for limited relief, and without a public hearing, in the case of:

- Modification of distance or area regulations;
- Additions to structures, which are not consistent with to the required yard setbacks, lot coverage, or floor area ratio (FAR) provided the additions meet the requirements of the zone; and/or
- Walls or fences that exceed heights permitted by the CVMC.

Modifications requested for relief described under 1, 2 or 3 above shall be limited to deviations not to exceed 20 percent of the requirements imposed by the CVMC.

In approximately 4-8 weeks after an application has been deemed complete and if environmental review is not required, a copy of a draft Notice of Decision (NOD) will be provided to the applicant prior to the consideration date for review. Notification of pending decision will be provided to property owners and tenants within 500 feet of the project site and to those interested parties who have requested to be notified. In the event no objections or protests are received, the ZA will grant the Variance request. After the project is approved the final NOD will be sent to the applicant for signature, and to any interested party who requested a copy. The NOD will also be posted on the City's website. In the event written objections or protests are received, the ZA shall set the matter for public hearing before the ZA.



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Public Hearing Items:

The Zoning Administrator (ZA) shall conduct a public hearing for a Variance under 1, 2, or 3 above that exceed 20% of the requirements imposed by the CVMC.

After project review, including environmental clearance, the project will be scheduled for public hearing. The applicant will be notified of the date of public hearing. The project architect/designer and the applicant or a designated representative should, in all cases, attend the meeting. Notification will be provided to property owners and tenants within 500 feet of the project site, and to interested parties who have requested to be notified. Public hearings before the ZA follow the same procedures for the Planning Commission (PC) but can be scheduled Tuesdays through Thursdays. All hearings are noticed and open to the general public. After conducting a public hearing, during which time the applicant and other interested parties may speak, the ZA may grant the Variance request.

Consolidated Hearings: Pursuant to [CVMC 19.14.050\(C\)](#), for projects that require more than one permit or other approval for a single development (e.g. design review, conditional use permit, and a rezone), the applications shall be consolidated for processing and shall be reviewed by a single decision maker or decision-making body. The consolidated application shall be heard by the decision maker or decision-making body associated with the highest level action among the applications to be considered. The findings required for approval of each permit shall be considered individually, consistent with CVMC Sections 19.14.080; 19.14.190 and/or 19.14.582(E) as applicable.

Appeals of Decisions: Pursuant to the [CVMC 19.14.100](#) an interested party may appeal the decision of the ZA to the City Council. The appellant must be an interested party. An interested party means a person who was present at a public hearing from which an appeal arose, and who had filed a speaker slip with the decision maker at that public hearing, or a person who expressed an interest in the project in writing to that decision-making body before the close of the public hearing or a decision on an action from which an appeal may be filed. The appellant must file a complete appeal application form (pdf) within the specified appeal period (10 business days after the decision has been made), complete the Disclosure Statement, and pay the required fee. If determined to be valid, the appeal will then be scheduled for a hearing by the City Council within 30 days.

Possible requirements for Public and Private Improvements: Applicants for development projects, including additions and interior/exterior remodels, and some proposals involving a change in land use, are advised that they may be required to install and /or modify on- and off-site public and private improvements and pay impact fees. Improvements may include on-site structures, paving and landscaping, and requirements to dedicate, improve and/or modify streets and other public facilities off-site. Fees may include sewer, traffic and development impact fees. The necessity for or exact extent of these requirements and fees, if any, are generally not known until an application has been filed and routed for review and comment to the various City departments and outside agencies. Applicants are encouraged to contact the City regarding the possibility for and the general extent of these requirements at the earliest possible stage of project consideration.

Environmental Review: A Variance is a discretionary action and requires review for compliance with the California Environmental Quality Act (CEQA). Projects will either be determined to be exempt from CEQA or will require environmental review involving the processing of an Initial Study or Environmental Impact Report, which will extend the processing time frames. Environmental review can be processed concurrently with the variance; however, action on the variance may not occur until the environmental process is complete. Staff should be able to determine whether or not environmental review will be required at the pre-application meeting. A separate application form and deposit are required for environmental review ([pdf](#)).